

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the)	CG Docket No. 10-51
Video Relay Service Program)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals)	
With Hearing and Speech Disabilities)	
_____)	

PETITION FOR EXPEDITED RETROACTIVE WAIVER

I. Introduction

Convo Communications, LLC (“Convo”) hereby respectfully requests a retroactive waiver of the Federal Communications Commission’s (“Commission”) rules in § 64.615 (a)(5) requiring that the ten digit numbers of users be in the User Registration Database (“URD”) in order to be compensable.

The Commission rules may be waived for good cause “where the particular facts make strict compliance inconsistent with the public interest.”¹ We respectfully request the Commission grant a retroactive waiver of the applicable Telecommunication Relay Service (“TRS”) rules regarding the URD for certain Convo ten digit numbers (“TDNs”) assigned to eligible Video Relay Service (“VRS”) users for which Convo failed to submit a last activity report. Consequently the TRS Fund Administrator, Rolka Loube Associates (“RLA”), terminated these TDNs from the URD on the basis that the URD indicated that the users had been inactive for a one-year period. The Commission rules may be waived for good cause “where the particular facts make strict compliance inconsistent with the public interest.”² This waiver is in the public interest because: (1) the users terminated by

¹ 47 C.F.R. §1.3. See, 2011 Order, ¶ 62 (citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

² 47 C.F.R. §1.3. See, 2011 Order, ¶ 62 (citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

RLA were all active users at the time of their termination; (2) there is little cause to implement strict enforcement of the last activity report; (3) all users were eligible users of TRS; and (4) without All Call Query in place, the work of reviewing daily terminations from RLA is heavily reliant on manual labor opening the door to human error.

II. Discussion

Pursuant to §64.615(a)(3), in 2018 the URD went into effect for VRS providers with oversight from RLA.

The first year of the URD has been a learning curve for all parties involved. To illustrate this learning curve, the “TRS VRS Registration Database Filing Instructions” which contain the instructions for providers to follow in their submissions to the URD and to RLA, has seen at least six versions since May 18, 2018, with the latest rendition being shared as recently as March 1, 2019. This is noted not to critique the updates, which have been vital in providing clarification of the instructions, but rather to highlight how much need there has been to remain adaptable and amendable to a process that has required an element of trial by error. As RLA and the FCC worked together to understand how best to guide providers in accordance with the TRS Rules, updates were made on a near regular basis requiring Convo to quickly learn and adapt to the new developments. Convo commends RLA for its patient and diligent efforts to work with VRS providers to resolve URD related issues.

Convo recently learned that just prior to its former Senior Engineer’s departure from Convo in June 2018, Convo stopped submitting last activity reports to RLA in May 2018. As a small provider reliant on limited personnel for critical functions, Convo was unaware of the cessation of this step in its URD procedures. Upon investigating the withholdings of the compensation for VRS calls handled, Convo learned on January 18, 2019 that RLA had terminated in the URD [REDACTED] of Convo’s active users because due to the missing last activity reports, the URD indicated that they had been inactive for a one-

year period. With Convo unaware of the terminations, these otherwise eligible users continued to make VRS calls. In a meeting on January 18, 2019, RLA explained to Convo the reasons for the withholdings—that these TDNs were presumed to be inactive due to receiving no last activity reports since May 2018.

Upon learning of this, Convo immediately resumed submitting last activity reports on January 19, 2019 and has been submitting them daily thereafter. Convo also immediately set out to re-register the users terminated in URD. The process of re-registering these numbers has been a labor intensive effort requiring much manual labor to build the dataset required to resolve this issue. Convo chose not to cease providing service to those users during the re-registration period, given the adverse consequences of losing their ability to make and receive VRS calls for a variety of needs, including emergency calls.

At this time, Convo has successfully re-registered its users that were terminated from URD due to the issue with the last activity report. The withholding of compensation for VRS calls associated with terminated users from May 2018 to January 2019 consisted of approximately [REDACTED]³. We estimate that the very last month that will see this issue, February 2019, will have approximately [REDACTED] minutes withheld for this reason⁴.

There has been no dispute that the users terminated from the URD due to the missing last activity reports were by definition active users otherwise eligible to use VRS, nor is there any dispute that their calls were legitimate use of VRS absent the filing error. Not permitting their VRS calls would have resulted in, at minimum, a hardship on the users. As previously mentioned, RLA has been very willing to work with VRS providers to resolve URD procedural and technical issues, but has referred us to the Commission to receive a waiver before it can proceed to work with Convo with respect to the

³ This figure is a rounded estimate as RLA would determine the specific amount of minutes withheld due to this issue.

⁴ This waiver request is filed prior to the February distribution, so this is an educated estimate.

compensation of VRS calls of the terminated users.

The instructions regarding last activity date are designed to provide a way to monitor compliance with the TRS rules regarding preserving the integrity of data, requiring that “each VRS provider shall request that the administrator of the TRS User Registration Database remove from the TRS User Registration Database user information for any registered VRS userthat has neither placed nor received a VRS or point to point call in a one year period.”⁵ Strict enforcement of the filing instructions regarding the last activity date issue in this case will not result in compliance with §64.615(a)(3)(i). Strict enforcement of this rule results instead in non-payment for hours of video relay interpreting provided to otherwise eligible users of VRS; and does not further the goal of terminating users who have not made a point to point or VRS call in one year’s time and maintaining data integrity.

Convo ensures compliance with the data integrity requirements in §64.615(a)(3)(i) by utilizing a monthly review of all its iTRS numbers. Convo then removes from Convo’s database, the URD, and the Numbering Directory all users who have neither “placed nor received a VRS or point to point call⁶” or logged in to their accounts in the preceding [REDACTED]. It was in part Convo’s more restrictive definition of inactive users and practice of purging them from all numbering databases that led Convo to believe that there were no issues with inactive users. This situation was not a matter of inactive users kept in the relevant databases past the date they were due to be removed, it was strictly an issue of a filing error without which all of the users would have maintained their active status in URD.

This past year has been fraught with new issues as RLA and providers worked together to understand the new URD system; there has been confusion requiring clarity; and delays due to technological issues. It is not in the public interest to penalize a small

⁵ 47 C.F.R. § 64.615(a)(3)(i)

⁶ 47 C.F.R. § 64.615(a)(3)(i)

provider who has worked tirelessly to partner with RLA in understanding the new URD system and abiding by it. Denying compensation meant each department in Convo had to sustain budget cuts, putting Convo in a difficult position as it continues to work toward efficiency while improving upon its technology; this has amounted to a disproportionate punishment for a ministerial error. Convo has demonstrated its compliance with the requirements of URD and its support of the principles behind it. What Convo asks is for a one-time retroactive waiver for which there is good cause to address a unique process error. The Commission's grant of the requested waiver will result in the compensation of legitimate VRS calls by active users which were initially registered in the URD and will not adversely affect the Commission's ability to prevent waste, fraud, and abuse.

The Commission may waive rules where good cause exists and where strict compliance would be inconsistent with the public interest⁷. Good cause exists here to provide a waiver where petitioner had the need to correct inadvertent, ministerial, or clerical errors associated with filings or other submissions; and where strict compliance with the rules resulted in a withholding or punishment that is disproportionate to the ministerial errors made; and where the petitioner has corrected the mistake and taken measures to prevent further errors of like kind.

Convo immediately corrected its inadvertent errors and took measures to ensure submission of last activity reports re-occur on a daily basis and immediately re-registered the users terminated by RLA as a result of the missing reports. Convo's monthly review of inactive users has ensured that the absence of the last activity reports did not harm Convo's ability to maintain a database of only active users. Given these measures, granting a limited waiver will not hinder the Commission's efforts to maintain oversight of the mandatory minimum standards and ensure compliance by providers.

⁷ 47 C.F.R. §1.3. See, 2011 Order, ¶ 62 (citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

III. Conclusion

Convo respectfully requests a retroactive waiver of the applicable TRS rules regarding the User Registration Database to enable Convo to be compensated for the video relay services it provided.

Respectfully submitted,

/s/ Amanda Montgomery
Amanda Montgomery
Deputy General Counsel
Convo Communications, LLC
2028 E Ben White Blvd #240
Austin, TX 78741
401-213-1677
amanda.montgomery@convorelay.com

March 27, 2018